

REMARKS

Claims 1-147 are pending in the present application. Claims 18 and 23-26 are canceled herein. The Office Action requires restriction to one of thirteen groups of claims. As required in response to this Action, applicants elect Group I (claims 1-34, 42, 112-121 and 130-138).

The Office Action also requires a species election. Applicants provisionally elect the Igα receptor as a species for examination. Claims 17, 19, 20, 22, 27, 29, 30-34, 42, 112-121, and 130-138 are readable upon the elected species. Applicants acknowledge that, upon allowance of a generic claim, applicants will be entitled to consideration of claims to additional species.

The Examiner has requested that the applicants elect a specific antibody receptor “species.” Applicants traverse this election of species requirement for the following reasons. As discussed in the 37 C.F.R. § 1.141(a), an application may claim a reasonable number of species within a claimed genus as long as at least one genus claim encompassing all of the species is patentable. The Examiner has indicated that a *specific* antibody receptor must be elected. Applicants assert that this is not an appropriate application of the 37 C.F.R. § 1.141, which is aimed at situations where there are unreasonable numbers of species claimed. The present situation is not a situation where the applicants are claiming a genus of compounds, for example, a set of 1000 different nucleic acid molecules, and also claiming each of the encompassed species separately, which would be an appropriate application of the election of species requirement. Rather, applicants have claimed methods and compositions directed to the Igα receptor and/or the Igβ receptor. At most, this would require examination of two species which is not unreasonable. Thus, applicants are not required in the present application to elect a species when applicants have not claimed an unreasonable number of species.

For the reasons stated above, applicants respectfully assert that the species election as set forth by the Examiner would be contrary to promoting efficiency, economy and expediency in the Patent Office and further point out that restriction by the Examiner is discretionary (M.P.E.P. § 803.01). Thus, applicants respectfully request that both antibody receptor species, i.e. Igα receptor and Igβ receptor, be examined together. Consequently, reconsideration and modification or withdrawal of this species election is requested.

In addition to the species election of a specific antibody receptor, the Office Action states that the application contains claims directed to Igα receptors comprising mutations. The Office Action also states that the application contains claims directed to Igβ receptors comprising mutations. Thus, Applicants are required to elect a specific Igα receptor mutation and a specific Igβ receptor mutation for examination.

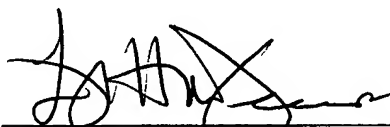
As stated above, claims 18 and 23-26 are canceled herein. Therefore, the claims of elected Group I no longer refer to a mutated Igα receptor or a mutated Igβ receptor, thus rendering the requirement for electing a mutated Igα receptor or a mutated Igβ receptor moot.

Applicants also wish to remind the Examiner of the guidelines for rejoinder of claims as set forth in M.P.E.P. § 821.04, as they apply to the pending claims of the instant application.

No additional fee is believed due. However, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

NEEDLE & ROSENBERG, P.C.

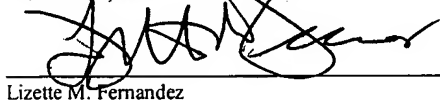


Lizette M. Fernandez, Ph.D.
Patent Agent
Registration No. 46,694

NEEDLE & ROSENBERG, P.C.
Customer Number 23859
(678) 420-9300
(678) 420-9301 (fax)

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence, including any items indicated as attached or included, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.


Lizette M. Fernandez

11/16/04
Date